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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

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SUMMARY RECORD OF THE 1032nd MEETING

Held at the Palais des Nations, Geneva,
on Monday, 14 March 1994 at 10 a.m.

Chairman: Mr. GARVALOV

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Tenth and eleventh periodic reports of Norway (CERD/C/210/Add.3)

1. The CHAIRMAN said that the Committee had before it the tenth and eleventh periodic reports of Norway, submitted in a single document (CERD/C/210/Add.3), as well as the core document constituting the first part of Norway's report (HRI/CORE/1/Add.6).

2. At the invitation of the Chairman, Mr. Wille (Head of Division in the Norwegian Ministry of Foreign Affairs), Mr. Myhrer (Public Prosecutions Department) and Mr. Nystuen (Ministry of Foreign Affairs) took places at the Committee table.

3. Mr. WILLE (Norway), introducing Norway's periodic report (CERD/C/210/Add.3), said that Norway appreciated the dialogue with the Committee on the Elimination of Racial Discrimination as a vital component of the international system for monitoring human rights and freedoms. He thanked the country rapporteur for Norway, Mr. Banton, for the interesting comments and questions contained in his note (document without a symbol, English only), which had considerably helped his delegation to prepare its statement, and which, together with the Committee's concluding observations after its consideration of Norway's report, would greatly help the Government to follow up the dialogue.

4. Mr. Banton had raised the question of the participation of non-governmental organizations in preparing reports (para. 4 of his note). Because of special circumstances it had not been possible to follow the usual practice of consultations before submitting Norway's eleventh periodic report to the Committee. That was exceptional, and the practice of consultation would be followed wherever possible in future. The reports and concluding observations of the Committee would also be communicated to interested non-governmental organizations and individuals.

5. Unfortunately, there was no single "recipe" for combating racism in all its forms, whether violent or subtle and indirect. Anti-racist strategies should therefore be assessed in terms of their effectiveness. Norway had chosen to combat racism by improving documentation and statistics (studies on the standard of living and violence against immigrants, data collection on racial violence and harassment), while strengthening legal instruments and bringing the education of the personnel concerned (the police, journalists, teachers, health and social welfare workers) more closely into line with the changing face of Norway.

6. Regarding the obligations incumbent on States parties under article 4 (b) of the Convention (paras. 8-19 of Mr. Banton's note) the Government of Norway believed that a general rule expressly prohibiting organizations such as those described in that article was unnecessary and would raise complex issues in relation to other human rights guaranteed by the Constitution, such as free speech and freedom of association. In Norway, members of such organizations

could, moreover, be punished under specific provisions (article 330 of the Penal Code, in conjunction with articles 135 (a) and 349 (a)). The Government of Norway recognized the importance of article 4, and of the obligation it placed on States parties to take certain legislative measures. Norway had discharged that obligation by including two articles (articles 135 (a) and 349 (a)), in its Penal Code. It believed that article 330, taken in conjunction with articles 135 (a) and 349 (a) of the Penal Code, sufficed to give effect to the provisions of article 4 (b) of the Convention. Those articles of the Penal Code made it possible to prosecute anyone who set up such an organization and any member of an association whose purpose was to commit or incite people to commit offences punishable by law.

7. Regarding the elimination of racial discrimination in respect of the right to work, covered by article 5 (e) (i) (para. 23 of Mr. Banton's note) he said that to his knowledge no complaint of racial discrimination in connection with the exercise of the right to work had been brought before the Norwegian courts. However, the Government of Norway appreciated the need to assess the situation in that area; consideration had been given to gathering relevant data, although there was as yet no specific plan.

8. Paragraphs 43 to 45 of Norway's periodic report required clarification: in view of recent developments and of the recommendations by the United Nations General Assembly, the Government of Norway had lifted its remaining sanctions against South Africa, with the exception of the arms embargo. He remained at the disposal of the members of the Committee to provide any further information they might require.

9. Mr. MYHRER (Norway) said that in recent years the Norwegian police and the prosecuting authority had been criticized for setting aside practically all reports of violations of sections 135 (a) and 349 (a) of the Penal Code, in many cases without an investigation. Very few of those cases had been appealed before a higher authority. Nevertheless, during the public debate on the matter, the Director-General of Public Prosecutions had received information that the police had dropped certain cases involving flagrant violations of those two sections. Accordingly, the Director-General had requested public prosecutors throughout the country, in performing their supervisory and advisory duties, to keep a close watch on how such cases were dealt with by the police. Prosecutors had also been instructed to review all reports of violations of sections 135 (a) and 349 (a) of the Penal Code during the period from 15 January to 15 April 1994, and closely to monitor how the cases were investigated and decided.

10. At the end of that period, the public prosecutors were to send to the Director-General of Public Prosecutions copies of all the reports, accompanied by an account of how they had been dealt with and decided. The Director-General hoped that those measures would help to ensure that reports of violations of sections 135 (a) and 349 (a) of the Penal Code were satisfactorily investigated in the future, and that criminal proceedings would be instituted when appropriate.

11. Mr. BANTON (Country Rapporteur) said that most of the members of the Committee agreed that efforts to combat racial discrimination required two types of action: the adoption of appropriate policies for long-term action,

and the adoption of measures in order to act rapidly in response to a crisis. The representative of Norway had referred to Norway's overall policy to combat racial discrimination, which came within the first type of action. Regarding the second type, the Committee would appreciate information, in a future periodic report by Norway, on the social indicators used by Norway to monitor the implementation of the various elements of that policy (para. 3 of his note).

12. The positive steps taken by Norway to protect the rights of the Sami (CERD/C/210/Add.3, paras. 6 to 22) were particularly commendable. He asked for clarification of the reference to the "Sami people" contained in article 110, which had been inserted into the Constitution. He wondered whether the Sami were a "people" within the meaning of article 1, paragraph 1, of the International Covenant on Civil and Political Rights, which provided that "all peoples have the right to self-determination", or whether they were an "ethnic, religious or linguistic minority" within the meaning of article 27 of the Covenant, an interpretation which would not support the claims of the indigenous peoples, who aspired to equal status (note, para. 6). He asked what current opinion was in Norway, in that respect. In 1990, Norway had ratified the Convention concerning Indigenous and Tribal Peoples in Independent Countries, 1989 (No. 169) of the International Labour Organization (report, para. 18). At the beginning of article 14, paragraph 1, the Convention stipulated that "the rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognized". He asked whether Norway believed that it fulfilled the commitment it had thus made by ensuring that the Sami enjoyed strongly protected rights of usage (note, para. 7).

13. Paragraphs 51 to 55 of Norway's report described the measures taken to implement article 4 of the Convention (paras. 8 to 19 of his note). Regarding the implementation of article 4, and in particular the scope of article 2, paragraph 1 (d) of the Convention, concerning the interpretation of article 4, the members of the Committee had so far had an opportunity to express their individual opinions; however, before the end of the week the Committee as a whole would express its views in its concluding observations, following the consideration of the periodic report of another State party. He wished to give an indication of the Committee's probable conclusions in that respect. He would be interested to know whether Norway concurred with such an interpretation of article 4 of the Convention.

14. The Committee would probably find that although article 2, paragraph 1 (d) offered States parties certain leeway, the wording of article 4 (a) and (b) was so categorical that the two subparagraphs in question were not open to interpretation, but were mandatory. Whether or not Norway used existing provisions to punish acts that constituted violations of article 4 was another matter (note, para. 14). Although that did not seem to be the case, Mr. Wille's announcement that new measures were planned might reassure the Committee on that point. In paragraph 15 of his note, he referred to a case reported by the Norwegian press, in which, surprisingly, no proceedings had been taken in respect of racist graffiti daubed on a wall. Moreover, incitement to racial hatred by means of radio broadcasting deserved separate consideration (note, para. 16). Even though the Nite Rocket radio station - whose broadcasters were Nazi and Ku Klux Klan sympathizers - had

ceased broadcasting, the problem might arise again. In its twelfth report, Norway should indicate what rule was followed by the Broadcasting Committee in deciding whether to prohibit broadcasts by similar organizations. Freedom of expression for racists should not weigh more heavily in the balance than the safety of the potential victims of abuse of freedom of expression. Norway might provide some observations in that respect.

15. In his view, the Government of Norway underestimated what was required of it in order to discharge all its obligations under the Convention (note, para. 17). In Norway, racism appeared to be considered as a kind of belief leading to discriminatory behaviour, and debate essentially focused on that premise, neglecting the equally important reverse process, namely, the way in which patterns of social inequality generated prejudiced attitudes. In 1992, a ministry had established a working group responsible for systematically collecting data on racist violence (note, para. 18). He hoped that it would progress rapidly in its work. He pointed out (note, para. 19) that one aspect of racial harassment was the publicizing to extremist groups of the names, addresses and telephone numbers of persons associated with integrationist, multiracial associations. He asked whether the Government of Norway was concerned about the threat such activities posed to law-abiding citizens and what measures it was taking to deal with it. The Committee would appreciate a reply to that question at its current session.

16. Paragraphs 56 to 66 of Norway's report covered the measures it had taken to implement article 5 of the Convention (note, paras. 20 to 27). Article 5 was the key article of the Convention in combating the ways in which racial inequality generated prejudice and discrimination. It was difficult to assess Norway's record in that respect solely on the basis of the demographic data provided in paragraph 9 of its periodic report. Earlier periodic reports were barely more helpful. He asked the Government of Norway to refer to the general guidelines concerning the form and contents of reports by States parties (CERD/C/70/Rev.3), which specified that "In the absence of quantitative information, a qualitative description of the ethnic characteristics of the population should be supplied". (Guidelines, para. 8). He wished to ask the Norwegian delegation several questions about the application of article 5 (note, para. 21). Did Norway believe, and if so, why, that the members of ethnic minorities received equal treatment in the criminal justice system? The way in which juries were composed could provide relevant information; how were the jury lists compiled, and were recently naturalized citizens included in them? He suggested that the Norwegian authorities should ensure that the composition of juries was balanced, not for all criminal trials - such a requirement would be absurd, for example, in respect of traffic offences - but for certain trials in which there were racist motives. In England and in Wales a judge was required to hear the arguments of the defence lawyer on that point and to take them into account in selecting the jurors. Norway might give the practice consideration and acquaint itself with the work of the judicial studies board in London, which had developed a training programme for judges and magistrates to help them deal with the problems arising from ethnic or cultural differences. Also in connection with article 5, he asked whether ethnic minorities received equal protection from attacks, whether they themselves believed that they received equal protection, whether their views had been sought and whether they were consulted on such matters.

17. He asked whether Norway was satisfied that its immigration officers performed their duties without engaging in discrimination. A number of incidents suggested that such was not the case (note, para. 22). He asked to what extent discrimination affected the right to work (note, para. 23). Although Mr. Wille had informed the Committee that there had been no such discrimination recently, he wished to be certain that the claim was also valid for the private sector. He asked whether Norway was satisfied that protection against discrimination in respect of the right to work was assured in both the public and private sectors. He also asked what measures had been taken in that respect since 1977, when the Committee had drawn Norway's attention to that important matter (note, para. 24). He also asked what the situation was in respect of racial discrimination in housing (note, para. 25), the right to health (para. 26) and freedom of access to all premises or services (para. 27), whether any remedies were available to a person who believed that he or she was a victim of racial discrimination affecting the exercise of any of his or her rights, and whether the remedy was effective, as required by article 6 of the Convention. Norway should provide information on all those points in its next report.

18. He had been disturbed when he had recently read that in 1993 Nazis had paraded in the streets of Norway for the first time since the war. The report made no mention of that incident, which was extremely serious, and he asked how such incidents were still possible. It was impossible to apply a cure without a diagnosis. The Norwegian authorities had recently referred to the need to mobilize young people against racism. It would probably be possible to mobilize those young people who were already convinced of the heinous nature of racial discrimination, but the problem was to find ways of influencing the small minority who thought otherwise and dismissed all the advice their parents, teachers and political leaders gave them. Moreover, everyone recognized the importance of education in combating racial discrimination, but what educational measures would be effective among the small minority of troublemakers? He hoped that Norway would devote a significant section of its next report to its experience in that area, to the conclusions it had reached and to the directions in which it was endeavouring to progress.

19. Mr. WOLFRUM thanked the Norwegian delegation for its report (CERD/C/210/Add.3) and Mr. Banton for his searching analysis of it. He first of all drew attention to a number of positive aspects of the report. He commended the efforts made by Norway to promote the use and study of the Sami language (report, paras. 6 and 14). Norway went further in that respect than any other Nordic country. He noted in particular that the "municipal council may make such education [of the Sami language] compulsory" (para. 14). The report stated that Sami children also studied Norwegian, so as not to be excluded from the mainstream of Norwegian life. He also welcomed the fact that parents could demand teaching in Sami outside Sami districts "if there are at least three Sami-speaking pupils in a school" (report, para. 14). In other countries, such as Austria, the minimum requirement for teaching in a language other than the national language was one third of the pupils. Paragraph 19 of the report stated that an inter-ministerial working group had been established to examine the possibilities of transferring duties and authority to the Sami Assembly, and that it had submitted its recommendations in the spring of 1991. He would appreciate information additional to that

contained in paragraphs 20 and 21 of the report concerning the working group's report and follow-up to it. Finally, he welcomed the development of the teaching programme entitled "Norway as a multicultural society" which was taught in educational and training institutions for the police, journalists and teachers, etc. (para. 70). He would also appreciate further information about the programme.

20. He would appreciate clarification of a number of other aspects of the periodic report. Given "Norway's dualistic approach to the relationship between domestic law and international law" (para. 40), he asked what authority the Convention had in the Norwegian legal system, and whether it could be invoked directly before the courts. He also asked what the main languages were among asylum-seekers in Norway. He had heard that there were currently a large number of naturalized Pakistanis in Norway. He wondered what percentage they represented. He also asked how the principle of non-discrimination was interpreted in respect of the children of refugees or asylum-seekers, and whether they had the same rights as other children in terms of health care, education and family reunification. He requested information on the situation of asylum-seekers, especially children, who had been accepted by the Churches but not by the competent authorities and what their rights were in terms of education and health care.

21. He asked what the situation of stateless persons was and whether it was the policy of the Government of Norway to make it easier for them to obtain Norwegian nationality. What was their situation in terms of health care and education? How were the refugee centres in Norway organized? What was the system for providing health care and education in such institutions? How did the system of guardians for unaccompanied refugee children operate, and what were the guardians' functions and training? Lastly, he asked what happened when asylum-seekers were refused refugee status: were they expelled or were they entitled to remain in Norway? If so, what was their legal status?

22. He understood that a person did not have to possess Norwegian citizenship in order to be a juror. He would appreciate further information on that point.

23. Lastly, he had a number of negative remarks to make in respect of Norway's report (CERD/C/210/Add.3). As Mr. Banton had pointed out, the report made no mention of the xenophobic or racist attitudes present in contemporary Norwegian society. However, such tendencies existed in Norway as in all European countries. For that reason, the statement by the representative of Norway in his oral presentation of the report that it would be impossible to prohibit organizations such as those described in article 4 (b) of the Convention, as it would infringe other fundamental human rights such as freedom of expression and freedom of association, was not convincing. None of those rights was unconditionally guaranteed either by the Universal Declaration of Human Rights or by the International Covenant on Civil and Political Rights. Moreover, as Mr. Banton had emphasized, article 4 (a) and (b) was mandatory, and as Norway had made no reservation to it, it was

required to accept and abide by it. The Act of 16 June 1989 "adding racial motivation as an aggravating circumstance when an act of violence has been committed" (report, para. 51) indeed reflected the spirit of the Convention, although it did not suffice to release Norway from its obligations under article 4 (a) and (b).

24. Mr. VALENCIA RODRIGUEZ endorsed Mr. Banton's remarks and questions. The report essentially focused on describing the situation of the Sami population and the legal status of aliens with regard to their entry into Norway and their rights once they had arrived. According to information received by the Committee, Norway had not been spared by the wave of racism and xenophobia sweeping through the other European countries and elsewhere. The fact had even been recognized by the Norwegian courts. He asked what measures the Norwegian Government had taken to combat that trend. The report described measures adopted on behalf of the Sami language, culture and way of life (paras. 7 and 8). He asked what the results of the implementation of the Act of 12 June 1987 had been and how the Sami population had reacted. Regarding the entry of foreigners into Norway and cases of imprisonment for offences under the Immigration Act (para. 27 et seq.), he asked whether the Act had been used against certain specific ethnic or national groups, and if so, what measures had been taken. He asked whether in those cases in which misapplication of the Immigration Act had led to the imprisonment of the persons concerned (report, para. 35), specific ethnic groups had been affected. How had such cases been resolved? Was it possible for a foreign national whose work permit expired before he had obtained his Norwegian residence permit to obtain an extension of his permit in order to complete the necessary formalities or did he have to leave Norway immediately under threat of imprisonment?

25. It appeared from paragraph 39 of the report that Norway applied jus sanguini in respect of nationality, as the paragraph referred to foreign nationals who had been born in Norway and had lived there for many years without interruption. He asked whether there were cases in which jus soli applied to children born of foreign parents in Norway and what their nationality was. What regime applied, with regard to nationality, to the spouse of a Norwegian citizen?

26. He thanked the representative of Norway for the additional information he had given orally concerning the implementation of article 5 of the Convention. Nevertheless, he insisted on the need for more detailed information on protection against racial discrimination in the exercise of the other rights protected by article 5, which were not mentioned either in Norway's eleventh report or in its previous reports.

27. Finally, he commended the efforts made by Norway, in conformity with article 7 of the Convention (report, paras. 69 to 80), particularly in the spheres of education, culture and information, to combat prejudice leading to racial discrimination. Those efforts should be intensified to inculcate into everyone the principles on which the Convention was based.

28. Mr. ABOUL-NASR emphasized that article 4 was one of the key articles of the Convention. Despite its clear wording and mandatory character, some States parties claimed to have no problem of racial discrimination and thus no

need to incorporate into their Penal Code any provisions to penalize racist crimes, while others invoked the principles of freedom of expression and association to account for their inability to satisfy the Committee's expectations regarding the implementation of that article. As Norway had made no reservations to the Convention, he could see no valid legal argument based on such principles which it could invoke in order not to implement article 4.

29. The information available to the Committee showed that racist organizations and racist propaganda existed in Norway. He asked who those organizations were, how many there were, what their philosophy, principles and status were, and whether they had relations or contacts with other organizations in Europe or elsewhere. Although it was perhaps not possible immediately to answer such questions, detailed information on those points would be welcome in the next report. As Mr. Banton had observed, the Norwegian Government apparently failed to appreciate that racist organizations, propaganda and statements generated racial prejudice and racist attitudes which led to offences. It was inadvisable to wait until such offences had been committed before prohibiting such organizations or propaganda. Measures had been taken in some countries. For example, Israel had just prohibited two racist organizations, although the measure had been too late because they had already committed massacres. He asked whether an organization which declared that persons belonging to another race or of another colour were a threat to Norway and should be got rid of by any means would be prohibited or punished. In his view, such a statement would be an invitation to murder and could not fail to cause problems in the future.

30. Norway should be commended and encouraged for its position towards human rights and its efforts to resolve problems throughout the world. However, it should reconsider its position regarding the implementation of article 4 of the Convention.

31. Mr. de GOUTTES thanked the Norwegian delegation for its presence. He also thanked Mr. Banton for his analysis of the situation in Norway; his note was of assistance to the Committee in performing its task. A number of positive features should be emphasized regarding Norway. Norway maintained a regular dialogue with the Committee and was more timely in submitting its reports than many other countries. Moreover, Norway had made the declaration provided for by article 14 of the Convention. It had helped to draw up the European plan of action against racism, xenophobia and intolerance within the framework of the Council of Europe and provided considerable humanitarian assistance to refugees and the victims of apartheid.

32. As most of the questions he had intended to ask had already been put by other members of the Committee, he would merely take up some of them to emphasize certain points. Mr. Wolfrum had already referred to a degree of ambiguity about the status of international human rights instruments under domestic law. The Norwegian system was dualistic: a treaty was not directly applicable under domestic law. However, it was not clear what happened if a conflict arose between them. Did the provisions of domestic law take precedence, in accordance with the traditional view, or was the opposite the case, as in the opinion of the President of the Supreme Court? He asked

whether the Supreme Court had taken a decision on that matter, and whether the committee of lawyers responsible for proposing the necessary constitutional or statutory provisions, referred to in paragraph 11 of the core document, had submitted its report which had been due in 1992.

33. Paragraph 35 of Norway's periodic report stated that in 1992 approximately 2,000 asylum-seekers had arrived in Norway with false identity documents or without any documents. He asked the Norwegian delegation for details of the origin of those asylum-seekers, in terms of the percentage from each country. He asked whether the arrival of foreigners had generated a backlash among the population and whether it had given rise to racism in terms not of ideology but of behaviour, which was unfortunately quite widespread in western countries.

34. Paragraph 26 of the report referred to free legal advice for foreign nationals without a means test. He asked whether the advice was provided for all types of litigation or only for some.

35. He also asked what were the main exceptions provided for by law to the principal of equal rights for Norwegians and foreigners (report, para. 36).

36. Paragraphs 51 to 55 of the eleventh periodic report gave an interesting presentation of the various provisions of the Penal Code which served to implement article 4 of the Convention. However, as Mr. Banton had said, there was a lack of statistics and descriptions of actual cases involving, for example, complaints, prosecutions and convictions by the courts. It was not sufficient to state (report, para. 52) that there had been no decisions by the Supreme Court in that respect. The decisions taken by the lower courts were generally more instructive for assessing the effective implementation of the requirements of the Convention and the seriousness judges attached to the offences covered by its article 4. He asked how judges reacted to the development of certain forms of racism and xenophobia and whether instructions had been sent to the prosecution services urging them to exercise vigilance. He also asked whether immigrant populations were entitled to certain forms of legal aid. He asked whether, irrespective of legal aid, associations or NGOs representing the interests and defending the rights of immigrant populations could bring legal actions and whether immigrants could be jurors, even if they did not possess Norwegian nationality.

37. Mr. Banton had rightly emphasized the importance of social indicators revealing the non-integration of certain sectors of the population (unemployment, non-enrolment in school, housing problems, illness and mortality). Information on other symptomatic phenomena such as alcoholism, drug-addiction, street crime and prostitution among certain population groups would also be helpful, as would information on the composition of the prison population. Such indicators were far more revealing than a mere explanation of legal texts.

38. Mr. RECHETOV thanked the Norwegian delegation, which was composed of eminent jurists, for its presence and for the documents it had made available to the Committee. The situation of the Sami was apparently better in Norway than in certain neighbouring countries. They enjoyed more comprehensive guarantees from the State. Sami assemblies had been set up earlier and

possessed broader powers than the comparable bodies currently being established in other Scandinavian countries. Norway's experience could prove useful to the inhabitants of the northern part of the Russian Federation. It was important to note that in its previous reports, Norway had not only referred to legislative texts but had described practical cases illustrating how the judicial system responded to acts of racial discrimination.

39. The question of the relationship between the norms of international law and those of domestic law had been raised by Mr. de Gouttes. Norway followed the dualistic approach; in other words the norms of international law did not form part of Norwegian domestic law, thereby giving rise to practical problems in the case of a conflict between international and domestic law. While most countries with dualistic systems gave precedence to international law in such cases, Norway was one of the few countries to do the opposite. However, legal doctrine and practice were apparently evolving in Norway and a debate had begun on the subject. According to a work written by jurists who had recently studied the observations made by the Committee after its consideration of Norway's periodic reports, it was possible to invoke international legal norms before the Norwegian courts on points of principle or in respect of general provisions. However, the principle of the precedence of domestic law meant that international norms were frequently interpreted in a restrictive manner.

40. Those considerations led him to address the question of the prohibition of organizations advocating racism and the right to freedom of expression. He wondered whether freedom of expression, which was one of the most important human rights, might not occasionally be in direct conflict with human rights if it meant freedom to advocate racism. He feared that too liberal an interpretation of human rights would leave a clear field for what were actually criminal gangs. Noting that Norway had not made any reservations when it had ratified the Convention and that it was the Norwegian legal tradition to comply with human rights instruments, he asked the Norwegian delegation whether for Norway the prohibition on racial discrimination and on overtly racist organizations was not directly linked to the aims and purposes of the Convention.

41. Mr. van BOVEN noted with satisfaction that Norway had accepted article 14 of the Convention recognizing the right of individuals to appeal to the Committee. He also noted with satisfaction that Norway had ratified the Indigenous and Tribal Peoples Convention No. 169 of ILO (report, para. 18) which, in his view, was a step forward from the earlier conventions dating from the 1950s.

42. The fact that the current periodic report had been prepared in March 1993 no doubt accounted for the scant attention paid to certain phenomena which had become genuine sources of concern, namely, the manifestations of racism and racial discrimination recently observed in Norway. Those phenomena, which affected virtually all the European countries, were of concern not only to the Committee, but also to other international human rights bodies, including the Council of Europe, which, at the Vienna Summit, held in October 1993, had adopted a declaration on appropriate policies in response to racism. It would be interesting to know what Norway intended to do in response to that declaration.

43. Another point that was not dealt with in sufficient detail by Norway's report was the manner in which the Convention was applied within the framework of the Norwegian legal system. He was particularly surprised by the fact that there was not a single example of case-law in the report. That was perhaps attributable to the dualistic doctrine which prevailed in Norway, in accordance with which the courts would not invoke the International Convention on the Elimination of All Forms of Racial Discrimination. Nevertheless, the requirements of the Convention were reflected in domestic law and the Committee should be informed of judicial decisions relevant to its application.

44. Among the positive features for which Norway deserved credit, he cited the measures adopted better to publicize the content of the various human rights instruments both among the public and among the members of the legal profession, as described in paragraph 20 of the core document (HRI/CORE/1/Add.6). There were also the measures adopted, according to paragraphs 76 and 77 of the eleventh periodic report (CERD/C/210/Add.3), to implement the Convention. It was all the more surprising that article 14 should be so rarely invoked, as the State party was endeavouring better to publicize the Convention, particularly among lawyers.

45. Regarding the role of the courts, he first of all referred to paragraph 13 of the core document (HRI/CORE/1/Add.6), which stated that "All courts, at all levels, have the authority to decide cases in which human rights are invoked." In the light of the information contained in paragraphs 36, 37 and 38 of the eleventh periodic report (CERD/C/210/Add.3) concerning the Immigration Act and the rejection and expulsion of foreign citizens, he asked whether the courts were involved in such procedures. He asked whether in Norway there was any guarantee deriving from the general international human rights norms, such as article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, to protect persons who risked expulsion to countries where their rights and physical integrity would be endangered. Could they invoke the norms in question before the Norwegian courts? With regard to the content of paragraph 11 of the core document (HRI/CORE/1/Add.6), he asked the Norwegian delegation to give details of the measures taken in Norway to enhance the effectiveness of human rights instruments and to incorporate their provisions in Norwegian legislation or to adapt legislation accordingly.

46. The courts constituted one safeguard against racist incidents and practices; he asked whether Norway planned nevertheless to institute other mechanisms or systems offering such a safeguard, as was the case, for example, in Germany and in Sweden. He asked whether the Ombudsman played a role in that respect or whether a special mechanism was required in view of the surge in racial discrimination. He asked that question in the light of the content of paragraph 77 of the eleventh periodic report (CERD/C/210/Add.13), which indicated that there was some concern about racism.

47. Regarding the application of article 4 of the Convention, the report showed that the provisions of the Penal Code relating to racial discrimination rarely led to prosecutions, and that they were apparently not applied with sufficient severity. Some countries had issued new instructions designed to ensure that legislation penalizing racially motivated acts was applied more

severely. He noted, in particular, from paragraph 54, that the Minister of Justice had said that she was prepared to extend the right to prosecute to non-governmental organizations. He asked for clarification of the meaning of the last sentence of the same paragraph, which stated that "Such a right would have to come as a supplement to the rule of unconditioned public prosecution, because combating this kind of crime should still be the main responsibility of the State".

48. Regarding article 5, which explicitly concerned economic, social and cultural rights and not merely civil and political rights, the report gave few details of relevance to the former. He would appreciate, in particular, details of social indicators such as the unemployment rate among the population of foreign origin in comparison with that among Norwegians and information on what the State party intended to do to remedy any disparity. Again in connection with article 5, but regarding civil and political rights, he noted with satisfaction that foreign nationals who had resided in Norway for a period of three years had the right to participate in local elections (para. 58); Norway was truly a pioneer in that respect. Unfortunately, there were no statistics showing how many foreigners had been elected in local elections. Such information could be provided in the next report.

49. Mr. DIACONU paid tribute to Norway, which was a socially progressive State that was exploring a variety of means of implementing human rights. He drew attention, in particular, to the activities of the Norwegian Institute of Human Rights and of the Advisory Committee on Human Rights, whose work was of benefit not only to the State party itself but to other countries and international human rights institutions.

50. He was naturally concerned about a number of disturbing phenomena about which he requested clarification. In Norway, which had a population of slightly more than 4 million, there were approximately 340,000 persons of foreign origin, including naturalized persons, i.e. 7 to 8 per cent of the population; clearly, there was a large number of foreigners, whose presence had become a serious problem. In connection with the statement in paragraph 73 of the report that education was provided in the mother tongue in primary and secondary schools, he requested more precise data on the measures taken to preserve the language and culture of foreigners in the multicultural society developing in Norway.

51. The relationship between domestic law and international treaties was an important issue, not only in cases of conflict between them, but also when there was a lacuna in domestic legislation on a particular point. If the provisions of an international instrument did not apply it meant, for example in the case of racial discrimination, that the instrument in question was not implemented.

52. In view of the increase in xenophobic acts and Nazi-type movements, the question of xenophobic radio broadcasts was a serious matter. In his opinion freedom of expression was not incompatible with measures to prohibit such activities. He also noted that the police failed to act firmly or to respond immediately to manifestations of racism. It was widely recognized that, when the police failed to act immediately, violence snowballed.

53. He noted with satisfaction the measures taken on behalf of the Sami population. It was recognized that the Sami population in neighbouring countries were not satisfied by land use rights, and were demanding ownership rights in order to avoid being compelled to share land with other users. He asked what the situation was in Norway and whether the State exercised ownership over the land, with exclusive use being reserved for the Sami population. Apparently, use of the land's resources was linked to the Sami people's very identity; it was not merely an economic issue.

54. Mrs. SADIQ ALI commended the excellent quality of the report submitted by Norway and said that she wished to ask a number of questions further to those already put. The fact that the Government encouraged multi-racial organizations and movements which worked towards eliminating racial barriers was quite remarkable; other countries could take inspiration from that example. For that reason, the Committee would appreciate further information on the subject, and on the multi-party platform of youth leaders referred to in paragraph 42 of the report.

55. Moreover, the fact that article 14 of the Convention was rarely invoked was perhaps attributable to the lack of information about the Convention among foreigners, ethnic groups and victims of acts of racial discrimination. Referring to the recent statement by the Director-General of Public Prosecution, in which the latter had expressed an open attitude towards prosecuting in more cases involving the dissemination of racist ideas (para. 54), she expressed the hope that Norway's next periodic report would provide information on decisions by the courts concerning prosecutions instituted in conformity with article 4 of the Convention. She also asked, in connection with the application of article 6, whether provision was made for the victims of racial discrimination to be compensated. Finally, in connection with paragraph 70 of the report, she asked whether the training programme referred to was also intended for judges.

56. Mr. AHMADU first of all emphasized that, since Norway's periodic report had been prepared, racism and xenophobia had continued to gain ground throughout Europe, without sparing Norway. He commended the way in which article 3 of the Convention was applied in Norway, although he pointed out that it would have perhaps been preferable to wait until free elections had been held in South Africa before re-establishing full relations with that country. Nevertheless he stressed that the main pillars of the Convention were articles 4 and 5. He noted that the Norwegian authorities were somewhat reluctant to act in cases of racial discrimination or to restrict misuse of the media. He asked how the case reported by the Norwegian press, in which a farm had been daubed with racist graffiti, had been dealt with. He was also surprised by the occasional lack of interest shown by the police when reception centres for asylum-seekers were attacked or burnt. He suggested that extending freedom of expression to racist radio stations such as Nite Rocket, where Nazi sympathizers and Ku Klux Klan followers apparently worked, was a threat to the safety of minorities, and particularly of blacks.

57. Finally, he asked whether the law enforcement agencies, and in particular immigration officials, were given suitable training to ensure they did not practice discrimination in their work, and what measures were taken when they committed racist acts. He referred to the cases already mentioned by

Mr. Banton of a team of Algerian athletes and a well-known Nigerian writer who had suffered all kinds of harassment before being allowed into Norwegian territory; their experience suggested that the Norwegian police were unable to imagine that Africa could produce famous writers and top sportsmen. He would appreciate information in Norway's next report to indicate to what extent immigrants other than those of Nordic origin, and in particular Africans, were entitled to equal treatment by the law enforcement agencies.

58. Mr. LECHUGA HEVIA asked the representatives of Norway to clarify three paragraphs of their country's report. First of all, referring to paragraph 42, he asked how the Prime Minister's initiative to mobilize youth against racism had been received, and whether all political parties had accepted his extremely interesting idea. Paragraph 64 referred to two ongoing studies of the standard of living in Norway. He wished to know whether there were reliable up-to-date data on the standard of living of ethnic minorities, and in particular indicators such as the morbidity or mortality rates, the literacy rate, the rate of unemployment, etc. He asked what interest had been shown by the media in the measures taken to counter disinformation and propaganda directed against immigration and immigrants, described in paragraph 74 of the report. Lastly, he requested information on the participation of Nazi elements in public demonstrations in Norway.

59. Mr. YUTZIS noted that since Norway's previous report had been submitted, in 1989, the number of foreigners in Norway had increased by 37,822, i.e. 20 per cent. Referring to the first sentence of paragraph 35 of the current report, which stated that "it appears that the courts are more reluctant to accept detention pursuant to existing legislation than was the case under legislation previously in force", he asked why that was the case. As less than 3 per cent of the approximately 2,000 asylum-seekers who had arrived in Norway in 1992 with false identity papers, or without any papers at all, had been imprisoned, it would be interesting to know what had happened to the remaining 97 per cent. He also asked what were the "compelling social considerations" (report, para. 3.8) that could justify an exception to the rule referred to in the previous sentence concerning the non-rejection of foreigners.

60. Paragraph 54 referred to the various means envisaged by the Minister of Justice to ensure implementation of the provisions of article 135 (a) of the Penal Code on racial discrimination, and in particular the possibility of extending to non-governmental organizations the right to prosecute. He asked what had been decided in that respect. It might be beneficial for Norway to analyse certain measures adopted by France, where non-governmental organizations could not only intercede on behalf of a victim of racism or racial discrimination, but also claim compensation.

61. He then raised a number of points and questions brought up during the consideration of Norway's previous reports. When the report submitted in 1986 was being considered, Mrs. Sadiq Ali had inquired about the situation of the gypsies. He asked whether the new advisory group which the Government had made responsible for addressing the situation of the gypsies had taken any

measures, and if so what they were. He also asked for information on the results of the inquiry, which it had been intended to carry out between 1985 and 1988, into group violence at schools and in particular into the intimidation of backward children and the children of immigrants.

62. In connection with Norway's eighth periodic report (CERD/C/132/Add.5) Mrs. Sadiq Ali had inquired about the possible payment of compensation to the Sami for the reindeer they had lost following the Chernobyl catastrophe. He asked whether that question had been answered. Finally, he would also appreciate information on the integration of the Finnish community established in Norway's extreme north for several centuries, as well as data on the situation of foreign women.

63. Mr. SHAHI first of all said that in general the Scandinavian countries provided fine examples of liberal approaches to human rights. However, it was disturbing to see that Norway had not escaped the wave of xenophobia and racism sweeping through Europe. Referring to the example of his own country, Pakistan, where some 3 million Afghans had taken refuge, he said that the sudden arrival of a large number of refugees in a country naturally provoked reactions within the local population. However, the question was whether Norway could not have reduced the number of cases of racism by taking more effective measures. In that respect, he referred to the figures provided by Mr. Banton.

64. It was disturbing that some European countries attached more importance to freedom of expression than to article 4 of the Convention. Conferring absolute character on that right was contrary to internationally recognized norms, which did not exclude restrictions in certain cases. He hoped that Norway would take account of the Committee's position regarding the primacy of article 4 of the Convention.

65. The CHAIRMAN said that at its next meeting the Committee would hear the representatives of Norway, who would reply to the questions just put by its members.

The meeting rose at 1.05 p.m.